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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,510	06/27/2003	Gerard L. Seidl	0813-000017	9293
27572	7590	05/24/2005	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			HEPPERLE, STEPHEN M	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/608,510

Applicant(s)

SEIDL, GERARD L.

Examiner

Stephen M. Hepperle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2 Oct 03</u> . | 6) <input type="checkbox"/> Other: ____.  |

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Claims 18-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. These claims recite a method for venting an internal combustion engine, whereas the specification and drawings are drawn to a vent for an automatic transmission. Changing “internal combustion engine” to “transmission” would overcome the rejection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kallenbach. Kallenbach shows a dome (curve) shaped flexible relief valve with apertures (slit) 50 that will open given sufficient pressure in either direction. Collar 16 is seen as the retainer (claim 10), connecting the flexible valve to elongated member 24.

Claims 14-17 and 18-20 as understood are rejected under 35 U.S.C. 102(b) as being anticipated by Tupper. Tupper shows a fuel tank cap with a vent valve comprising a duckbill valve having a round outer circumference and a slit 54 formed at the end. A protective cap covers over the valve. In claim 14, the recitation “automotive” is seen as suggested use only. The overall device is mounted on an internal combustion engine (claims 18-20).

Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller. Miller shows a radiator fuel cap with a body 26 coupled to a protective cover 22. Valve 58 is a

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resilient relief valve that is biased down by spring 52 to control relief of pressure formed in the internal combustion engine's cooling system. A slit at the bottom opens to relieve vacuum.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kallenbach. It would have been obvious to form the Kallenbach valve to deflect open at any desired pressure, as a matter of extending the valve's usefulness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kallenbach in view of Izydorek et al. Izydorek shows a resilient check valve 302 (Fig. 15 and col. 9, line 30) made of flourosilicon. It would have been obvious to make the Kallenbach valve of known flexible plastics such as flourosilicon as taught by Izydorek because it is known to make cvalves of flourosilicon.

Claims 14-20 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Tupper or Miller in view of Atkinson. Atkinson shows a resilient valve with a rounded outside and slit 24. the valve is designed to relieve pressure in either direction. It would have been obvious to replace the spring biased duckbill valve of Tupper or Miller with the Atkinson valve to permit elimination of the bias spring, thus simplifying the valve (Atkinson col. 1, lines 37-43).


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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ferris et al. teaches the use of flourosilicon for fluid diaphragms in environments having significant temperature variation or fuels (col. 4, lines 5-10). Gifford and Hamano show relief valves for transmissions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Hepperle whose telephone number is 571-272-4913. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen M. Hepperle  
Primary Examiner  
Art Unit 3753

SMH